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Attorneys for Plaintiff
McKESSON CORPORATION

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

McKESSON CORPORATION, a Delaware
corporation,

Plaintiff,

v.

FAMILYMEDS GROUP, INC.,
f/k/a Drugmax, Inc., a Connecticut corporation,

Defendant.

FAMILYMEDS GROUP, INC.,
f/k/a Drugmax, Inc., a Connecticut corporation,

Counterclaimant,

v.

McKESSON CORPORATION, a Delaware
corporation,

Counterdefendant.

FAMILYMEDS, INC.,
a Connecticut corporation,

Cross-Complainant,

v.

McKESSON CORPORATION, a Delaware
corporation,

Cross-Defendant.

Case No.4:07-cv-05715 WDB

**DECLARATION OF MARIA K. PUM
PURSUANT TO
GENERAL ORDER NO. 45**

Complaint Filed: November 9, 2007
Cross-Complaint Filed: December 17, 2007

Date: August 20, 2008
Time: 1:30 p.m.
Place: Ctrm 4
1301 Clay St., 3d Floor
Oakland, CA

1 I, MARIA K. PUM, declare that I have personal knowledge of the following facts and, if
2 called upon to do so, I could and would testify competently thereto:

3 1. I am a partner with the law firm of Henderson & Caverly LLP, counsel to
4 McKESSON CORPORATION ("McKesson"), the plaintiff in the instant action. In my capacity as
5 a partner at Henderson & Caverly LLP, I am one of the two partners responsible for the
6 representation of McKesson in this matter.

7 2. I am providing this Declaration pursuant to "General Order No. 45—Electronic
8 Case Filing" of the Northern District of California (as amended 11/18/2004), Section VI(E).

9 3. On August 6, 2008, the ECF web site was unable to accept filings between the hours
10 of 9:00 pm on August 6, 2008 until August 7, 2008 at 6:00 a.m. A notice posted on the web site
11 stated that the ECF web site was down for routine maintenance over the foregoing stated period of
12 time.

13 4. I had not received any notification of an intended maintenance outage. I learned of
14 the outage after my administrative assistant informed me at approximately 9:30 p.m. that he was
15 not able to get the ECF web site to load, although he had tried several times. Initially, we feared
16 there was some problem with our internet connection. After we attempted to get the web site to
17 load a third time, we observed a notice posted on the web site indicating a 9-hour ECF web site
18 outage (the "ECF Outage") scheduled for August 6, 2008 between the hours referred to above.

19 5. The deadline for filing our papers (the "Reply Papers") in reply to the opposition of
20 Familymeds Group, Inc. to the motion for summary judgment filed on behalf of McKesson
21 Corporation and in opposition to related matters was midnight, August 6, 2008. *See*, General
22 Order No. 45, Section VI(D).

23 6. The scheduled ECF Outage was the sole reason that I was unable to file the Reply
24 Papers before midnight on August 6, 2008.

25 7. Once we learned we could not file the Reply Papers due to the ECF Outage planned
26 for the next 8 ½ hours, there was no point in trying to log on to the ECF system an hour later to see
27 if a filing was possible at such later time as is contemplated by General Order No. 45, Section
28 VI(E). However, we did try to log on again at 10:40 p.m., but were again unsuccessful.

1 8. Although filing was not possible before midnight on August 6, 2008, I sent an email
2 to counsel for Familymeds Group, Inc., Messrs. Robert C. Gebhardt and Matthew S. Kenefick of
3 Jeffer, Mangels, Butler & Marmaro LLP and to Ms. Michelle L. Siculo, law clerk to the Honorable
4 Wayne D. Brazil, explaining that I was unable to file and serve our Reply Papers using ECF due to
5 the ECF Outage and attaching a true and correct copy of the following pleadings, all of which are
6 included in the definition of "Reply Papers," to the email so that there would be no prejudice to
7 them caused by our inability to access the ECF website:

8 **REQUEST TO STRIKE AND OBJECTIONS TO FAMILYMEDS' PURPORTED**
9 **STATEMENT OF UNDISPUTED FACTS, AND**
10 **RECONCILIATION OF STATEMENTS OF UNDISPUTED FACTS SUBMITTED**
11 **IN SUPPORT OF (AND IN OPPOSITION TO) MCKESSON CORPORATION'S**
12 **MOTION FOR SUMMARY JUDGMENT OR, IN THE ALTERNATIVE,**
13 **SUMMARY ADJUDICATION;**

14 **REPLY OF MCKESSON CORPORATION TO OPPOSITION TO MOTION FOR**
15 **SUMMARY JUDGMENT, OR IN THE ALTERNATIVE SUMMARY**
16 **ADJUDICATION;**

17 **REPLY TO EVIDENTIARY OBJECTIONS RAISED BY FAMILYMEDS GROUP,**
18 **INC. IN OPPOSITION TO MOTION FOR SUMMARY JUDGMENT OR, IN THE**
19 **ALTERNATIVE, SUMMARY ADJUDICATION BY MCKESSON**
20 **CORPORATION;**

21 **EVIDENTIARY OBJECTION BY MCKESSON CORPORATION TO**
22 **DECLARATION OF EDGARDO MERCADANTE DATED JULY 30, 2008;**

23 **DECLARATION OF MARIA K. PUM IN REPLY TO OPPOSITION OF**
24 **FAMILYMEDS TO MOTION FOR SUMMARY JUDGMENT OR, IN THE**
25 **ALTERNATIVE, SUMMARY ADJUDICATION FILED BY**
26 **MCKESSON CORPORATION;**

27 **SUPPLEMENTAL DECLARATION OF ANA SCHRANK IN REPLY TO**
28 **OPPOSITION TO MOTION FOR SUMMARY JUDGMENT OR, IN THE**
29 **ALTERNATIVE, SUMMARY ADJUDICATION BY MCKESSON**
30 **CORPORATION; AND**

31 **SUPPLEMENTAL DECLARATION OF ANA SCHRANK IN REPLY TO**
32 **OPPOSITION TO MOTION FOR SUMMARY JUDGMENT OR, IN THE**
33 **ALTERNATIVE, SUMMARY ADJUDICATION BY MCKESSON CORPORATION**

34 9. The email described in Paragraph 8 above, together with pdf copies of each of the
35 Reply Papers listed above, was sent at 10:43 p.m. on August 6, 2008.

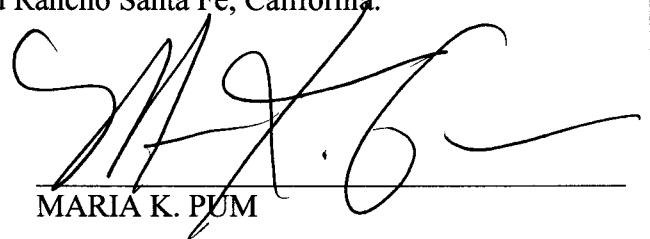
1 10. Pursuant to General Order No. 45, Section VI(E), the ECF Outage extended the
2 deadline for filing the Reply Papers until the next business day.

3 11. Each of the foregoing Reply Papers was filed and served using the ECF system on
4 August 7, 2008, which was the next business day after the initial August 6, 2008 deadline. The
5 Reply Papers filed and served on August 7, 2008 were identical to the papers served by email as
6 described in Paragraphs 8 and 9 above.

7 I declare under penalty of perjury under the laws of the United States of America that the
8 foregoing is true and correct.

9 Executed this 7th day of August, 2008 and Rancho Santa Fe, California.

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MARIA K. PUM